

IN UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES R. HENSON,

Plaintiff,

v.

PATRICIAL KELLEY, *et al.*,

Defendants.

Case No. 3:11-cv-00005-JPG-PMF

**MEMORANDUM & ORDER**

This matter comes before the Court on Magistrate Judge Frazier's Report and Recommendation ("R & R") (Doc. 38) wherein it was recommended the Court grant the defendants' motion for summary judgment (Doc. 35). The plaintiff, Henson, did not file a response to the motion. Magistrate Judge Frazier also issued an order requiring Henson to show cause as to why judgment should not be entered in favor of the defendants (Doc. 37). Henson did not respond to this order.

After reviewing a magistrate judge's report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.* The Court must review *de novo* the portions of the report to which specific written objections are made. *Id.* "If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

No party has objected to the R&R advising summary judgment be granted on the basis of Henson's failure to exhaust administrative remedies. The Court thus uses the standard of clear

error. *Id.* at 739. Having reviewed the R&R (Doc. 38) and underlying motion (Doc. 35), the Court finds there to be no clear error. Henson was subject to the exhaustion requirement of the Prison Litigation Reform Act (PLRA) which requires prisoners to exhaust all administrative remedies. 42 U.S.C. § 1997e(a). Henson did not file grievances in conjunction with the remaining allegations in this lawsuit and as such the defendants are entitled to summary judgment. Further, Henson did not file a response to the motion for summary judgment or show cause order. The Court therefore adopts Magistrate Judge Frazier's recommendation judgment should be entered in favor of the defendants.

The Court **ADOPTS** the R&R (Doc. 38) and **GRANTS** the defendants' motion for summary judgment (Doc. 35) thereby **DISMISSING** defendants Bollman, Kennon, Lingle, and Shaw. There are no remaining issues and the Court **DIRECTS** the Clerk of the Court to enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED:** March 6, 2012

s./ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**